

WAYNE COUNTY RULES OF FAMILY LAW

Passed By Wayne County Bar Association Effective October 30, 1997

RULE 1

SCOPE AND TITLE

A. **Scope.** These Rules shall govern the procedure and practice of all family law and domestic relations matters in the Wayne Circuit and Superior courts unless otherwise provided by law or rules of the Supreme Court of Indiana. These Rules are in addition to and are not intended to replace the Wayne County Local Civil Rules of Court. In the event of a conflict in a family law or domestic relations matter, the Wayne County Family Law Rules shall apply.

B. **Title.** These Rules shall be known as the Wayne County Rules of Family Law and shall be cited as LFmR.

RULE 2

ADMINISTRATIVE PROCEDURES

A. Denomination of Pleading. If there is a request for a provisional order, the Petition for Dissolution of Marriage, Petition for Legal Separation, or Petition to Establish Paternity shall be denominated 'Petition for Dissolution of Marriage (Legal Separation)(Paternity) And For Provisional Orders', whether such request for provisional orders is made separate from or as a part of the Petition.

B. Advise of time required. Attorneys shall advise the Court in the text of any preliminary or contempt petition if the matter cannot be heard on the regularly scheduled docket and shall provide an estimate of the time required in the event that more than 15 minutes is necessary.

C. Summary Hearing. By agreement of the parties, all issues and evidence relevant to a domestic relations case may be presented in summary fashion by counsel.

D. Copies of Decree required. When submitting a Final Decree and Property Settlement, the parties shall submit sufficient copies of each for the Court to retain an original and copy of each and provide copies to all counsel of record.

E. Bench Warrant. In order to obtain a bench warrant from the Court, a party must have personal service on the adverse party and complete a bench warrant on copy service with sworn testimony confirming actual notice to the adverse party.

F. Summons. In all relevant family law matters, the petitioner shall use the form of summons set forth in Appendix A.

RULE 3

SPECIFIC DISCLOSURE REQUIREMENTS

Prior to any preliminary hearing or within thirty (30) days after service of any petition seeking relief in any family law matter, whichever shall first occur, each party shall provide the Court with written notice of any other pending legal proceeding in which such person is a party wherein the other pending legal proceeding involves an issue or allegation of domestic violence, spousal abuse, child abuse, protective order, restraining order, or any criminal charges. The written notice should include the cause number of the legal proceeding, identification and location of the Court, names of the parties involved, and a brief summary of the nature of the legal proceeding.

RULE 4

AGREED MODIFICATION

An agreed modification entry shall not be approved by the Court without a petition for modification having first been filed. A Joint Petition for Modification or Stipulation for Agreed Entry of Modification shall specifically set forth the basis and reasons for such modification which meet the statutory requirements for such modification. The Stipulation or Joint Petition shall be separate and apart from the Order and shall not be combined in one pleading.

RULE 5

CHILD SUPPORT GUIDELINES

A. **Worksheet Required.** In all proceedings involving child support, each party shall file with any settlement, or submit to the Court at any hearing or trial, Indiana Child Support Guidelines worksheets - one or more depending upon the facts. In any request for provisional order that contemplates any order for child support a Child Support Worksheet with supporting documentation such as recent pay stub shall be attached to either the Motion for Provisional Order or Affidavit in Support. A response Child Support Worksheet with supporting document such as a recent pay stub shall be provided to the other party or to opposing counsel as the case may be, at least forty-eight (48) hours prior to the provisional hearing, unless reasonable circumstances prevent doing so and then such Child Support Worksheet shall be provided to the other party or opposing counsel at the earliest opportunity. Child Support Worksheets shall be promptly supplemented if changes occur prior to trial. Child Support Worksheets intended to be introduced at trial or final hearing shall be exchanged by the parties or counsel at least seven (7) days prior to trial.

B. **Support Settlement Agreements.** If an agreement concerning support provides any deviation from the Guidelines, the parties shall present to the Court a written explanation, with supporting documentation, justifying the deviation. The proposed Order shall specifically state that the Court is deviating from the Child Support Guidelines and set forth the reasons for such deviation.

C. **Income Withholding Order Required.** In all proceedings involving child support, an Income Withholding Order shall be submitted with any Settlement Agreement or Final

Decree pursuant to Indiana Code *31-16-15-1* or the parties shall:

1. Submit a written agreement providing for an alternative child support arrangement; or,
2. Provide within the proposed Decree that “the Court determines that good cause exists not to require immediate income withholding” and stating the specific reasons therefore.

RULE 6

FINANCIAL DECLARATION FORM

A. Requirement. In all relevant family law matters,

including dissolutions of marriage, separations, post-decree and support proceedings, the party filing the petition/motion shall provide to the opposing party or his or her legal counsel, if applicable, a fully completed Financial Declaration Form with all required attachments within forty-five (45) days of the filing of such petition/motion. The opposing party shall provide to the petitioning party or his or her legal counsel, if applicable, a fully completed Financial Declaration Form with all required attachments within fifty (50) days of the filing of the petition/motion.

B. Exceptions. The Financial Declaration Form need not be exchanged if:

(1) the parties agree in writing within fifty (50) days of the filing of the petition/motion to waive exchange;

(2) the parties have executed a written agreement which settles all financial issues;

(3) the proceeding is one in which the service is by publication and there is no response;

(4) the proceeding is post-decree and concerns issues without financial implications; provided, however, when the proceeding is post-decree and concerns an arrearage, the alleged delinquent party shall complete the entire Form, while the support

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recipient need complete only that portion which requires specification of the basis of the arrearage calculation (with appropriate supporting documentation); or,

(5) the Court otherwise waives such requirement.

C. Admissibility. Subject to specific evidentiary challenges, the Financial Declaration Form shall be admissible into evidence.

D. Supporting Documents. For the purpose of providing a full and complete verification of assets, liabilities and values, each party shall attach to the Financial Declaration Form all information reasonably required and reasonably available. this shall include recent bills, wage and tax records, bank records, pension and retirement account information, and mortgage account records. The term "reasonably available" means that material which may be obtained by letter accompanied with an authorization, but such term does not mean material that must be subpoenaed or is in the possession of the other party. Appraisals of real estate or personal property, or pension valuations are not required. However, once an appraisal or valuation is obtained it must be exchanged. Further, the Court may direct that an appraisal or valuation be obtained, just as it may designate the appraiser or valuator. The Court may require either party to supplement the Financial Declaration Form with appraisals, bank records, and other evidence to support the values set forth in the Form.

E. Financial Declaration - Mandatory Discovery. The
Rule 6, Page Three (3)

exchange of Financial declaration forms constitutes mandatory discovery. Thus, Indiana trial Rule 37 sanctions apply. Additionally, pursuant to Indiana Trial Rule 26(E)(2) and (3), the Financial Declaration Form shall be supplemented if information changes or is added or if additional material becomes available. Any additional discovery such as Requests For Production, Interrogatories, or Depositions of the parties to the action shall not commence until the Financial Declaration Form has been exchanged. Any further discovery shall not seek to obtain information already obtained by the Financial Declaration Form.

F. Privacy - Sealing Of Financial Declaration Form. Whenever the interest of privacy so requires, the Court may, upon proper Motion, direct that the Financial Declaration Form(s) be sealed until further order of the court. However, such request(s) shall not be made as a matter of course. When ordered sealed, the Court Reporter shall place the Financial Declaration Form(s) in a flat manner in an envelope of sufficient size,

seal the envelope, and affix a copy of the Order directing that the Financial Declaration Form(s) be placed under seal. Financial Declaration Form(s) may be withdrawn at the conclusion of the case on such terms as the Court may allow.

G. Clerk To Provide Notice Upon Filing. Upon the filing of any family law matter referred to in Rule 6(A), the Clerk shall provide to the moving party upon filing and to the non-moving party by service a Notice of the requirement of this Rule. Such Notice

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shall be in a form substantially as follows:

You are advised that the moving party is required to provide to the opposing party or his or her legal counsel, if applicable, a fully completed Financial Declaration Form with all required attachments within forty-five (45) days of the filing of such petition/motion. The opposing party shall provide to the petitioning party or his or her legal counsel, if applicable, a fully completed Financial Declaration Form with all required attachments within fifty (50) days of the filing of the petition/motion.

You are further advised that copies of the Financial Declaration Form may be obtained at the Clerk's Office, located on the Second Floor of the Wayne County Courthouse, 301 East Main Street, Richmond, Indiana.

Failure to timely provide a fully completed Financial Declaration Form with all required attachments may result in sanctions being entered against the party failing to comply with this Rule.

RULE 7

VISITATION ORDERS

Reasonable Visitation. The phrase “reasonable visitation” if not specifically defined in the Court’s order is defined as those visitation rights agreed upon between the parties. To the extent the parties cannot agree to the particulars of such visitation, “reasonable visitation” shall be defined as those visitation rights provided for in the Wayne County Visitation Guidelines set forth in Appendix C, unless the court determines that under the particular circumstances a different visitation schedule is reasonable.

RULE 8

TEMPORARY RESTRAINING ORDERS

Subject to the provisions of Ind. Trial Rule 65, in an action for dissolution of marriage, legal separation or child support, the Court may issue a Temporary Restraining Order, without hearing or security, if either party files a *verified petition* alleging an injury would result to the moving party if no immediate order were issued.

A. **Joint Order.** If the Court finds that an order shall be entered, the Court may enjoin both parties from:

1. Transferring, encumbering, concealing, selling or otherwise disposing of any joint property of the parties or asset of the marriage without the written consent of the parties or the permission of the Court;

2. Removing any child of the parties then residing in the State of Indiana from the State of Indiana from the State with the intent to deprive the Court of jurisdiction over such child without the prior written consent of all parties or the permission of the Court.

B. **Separate Order Required.** In the event a party seeks to enjoin the non-moving party from abusing, harassing, disturbing the peace, committing a battery on the moving party or any child or stepchild of the parties, or exclude the non-moving party from the marital residence, and the Court determines that an order shall be issued, such order shall be addressed to one person only. *A joint or mutual restraining or protective order shall not be issued.* If both parties allege injury, they shall do so by separate petitions. The Court shall review each petition separately and grant or deny each petition on its individual merits. In the event the Court finds cause to grant both petitions, it shall do so by separate orders. The moving party shall provide the Court the following information concerning the non-moving party:

Name: _____

SSN: _____

Age: _____ **DOB:** _____ **ØCE:** _____ **SEX:**

Height: _____ **Weight:** _____

Scars, tattoos or other identifiable characteristics?

Home Address:

Telephone No.

Work Address:

Telephone No. _____ **Work Hours:**

RULE 9

ORDERS EXCLUDING A SPOUSE FROM THE RESIDENCE

A. Eviction Without Notice. A Restraining Order without notice which would evict a spouse from the marital residence may be issued only upon the following bases:

1. There are alleged *specific* facts indicating more than a generalized fear of an adverse action;
and
2. There is evidence of actual or threatened physical or emotional abuse sufficient to find a risk of *imminent* danger; and
3. The movant is physically available to testify unless there is a showing of exceptional circumstances precluding his or her availability; or
4. The applicant certifies to the Court the reasons supporting the claim why notice cannot be given.

In addition to the foregoing criteria, the court may consider any other relevant social or economic factors including whether either party has a reasonable alternative residence pending hearing on the provisional orders. In those circumstances where the court allows a party to be heard ex parte on the record and finds an emergency exists justifying issuance of an eviction order, the cause shall be set for preliminary hearing within ten (10) days with notice to all parties.

B. **Order.** If an Order granting exclusive possession of the marital residence to one spouse is entered by the Court, such Order shall contain the following language:

"The _____ is hereby restrained from entering marital residence located at _____ and the Wayne County Sheriff's Department, Richmond Police Department, or other appropriate law enforcement agency shall use all reasonable force, including arrest, to remove a party from the premises upon presentation of such an Order."

RULE 10

CHILD CUSTODY AND VISITATION: REFERRALS FOR INVESTIGATION AND REPORT

A. **Motion.** On motion of either party with the approval of the Court, or on the Court's own motion, contested matters involving child custody and visitation may be referred to appropriate sources for investigation and report to the Court.

B. **Admissibility.** All custodial evaluator reports or guardian ad litem reports which are court ordered regarding custody and/or visitation shall be admissible into evidence on the motion of either party without the evaluator needing to be present at the hearing. No part of this Rule is intended to supplant the right of either party to compel the attendance of the evaluator or other witnesses as set out in Ind. Trial Rule 45.

C. **Physical and Mental Examinations.** In all contested family law matters involving child custody or visitation, the provision of Ind. Trial Rule 35 providing for physical or mental examinations by a physician shall be extended to include examinations and evaluations by a psychologist, therapist or other qualified evaluator upon order of the Court.

RULE 11

FEES

A. Provisional Attorney Fees. Provisional attorney fees may be awarded based on evidence presented by way of Affidavit (or oral testimony if the Court shall allow) at the provisional hearing. Affidavits shall be admissible subject to cross examination. The following factors will be considered and should be included in any Affidavit submitted to the Court:

1. The number and the complexity of the issues (e.g. custody dispute, complex asset valuation.

2. The nature and extent of discovery.

3. The time reasonably necessary for the preparation for or the conduct of contested pendente life matters or final hearings.

4. Other matters requiring substantial expenditure of attorney's time. 5.

The attorney's hourly rate.

6. The amount counsel has received from all sources.

7. The ability of the opposing party to pay the requested fees and the disparity of income between the parties.

When the Court finds that attorneys fees should be awarded, the Court may find as reasonable attorney fees an amount of up to Five Hundred Dollars (\$500.00) for provisional attorney fees in a "basic/routine" Dissolution of Marriage case.

B. Preliminary Appraisal and Accountant Fees. Appraisal or accounting fees may be awarded based on evidence presented by affidavit (or oral testimony if the Court shall allow) at a preliminary hearing. The following factors will be considered:

1. Itemized list of property to be appraised or valued (e.g. Defined Benefit Pension, Business Real Estate, Furnishings, Vehicles, etc.).

2. An estimate of the cost of the appraisals and the basis therefore.

3. The amount of a retainer required and the reason an expert is necessary.

C. Contempt Citation Attorney Fees. There shall be a rebuttable presumption that attorney fees will be awarded to the prevailing party in all matters involving a contempt citation. An attorney may submit by affidavit (or oral testimony if allowed by the Court) along with an itemized statement his requested fee. Affidavits shall be admissible into evidence by the Court.

D. Final or Interim Attorney Fees. Final or interim attorneys fees may be awarded based on evidence presented by way of Affidavit (or oral testimony if allowed by the Court) at the final hearing or any interim hearing requested by either party. The same factors as set out in Paragraph A above will be considered by the

Court.

RULE 12

CHILD SUPPORT ORDERS

A. Provisional Child Support Orders. There is hereby created a rebuttable presumption that provisional child support orders shall be made retroactive to the first Friday following the date of filing of a written request for a provisional child support order. Such presumption may be rebutted upon a showing that such retroactivity is inappropriate under the facts of a particular case. This Rule is effective with all requests for provisional child support orders filed on and after

March 1, 2003.

B.Modification Of Post-Decree Child Support Orders. There is hereby created a rebuttable presumption that modification of post-decree child support orders shall be made retroactive to sixty (60) days following the filing of the petition for modification.

This Rule shall not apply where a change of child custody is involved. This Rule is effective with all petitions for modification of post-decree child support orders filed on and after March 1, 2003.

C. Exchange Of Financial Documentation Before Hearing. At least fourteen (14) days before the scheduled provisional or modification hearing, the parties shall exchange their three (3) most recent paystubs, most recent W-2 and tax return, 1099's for income earned, and any documentation as to unemployment compensation or disability pay received within the last year

RULE 13

HELPING CHILDREN COPE WITH DIVORCE

- A. **Attendance at Class.** Before final hearing is scheduled on a petition for Dissolution of Marriage or Petition for Legal Separation in which the parties have minor children of the marriage, each party must attend not less than one session on Helping Children Cope With Divorce.
- B. **Location of Class.** The sessions will be conducted by Behavioral Health Care Associates, 800 South 8th Street, Richmond, Indiana, 47375, and will be held at their facility.
- C. **Contact.** Each party to the proceeding shall call Behavioral Health Care Associates at 765-983-8079 or 765-983-8085 within twenty days from the filing of the petition for the purpose of registering for the program. Each party shall provide Behavioral Health Care Associates with the cause number of the proceeding when they place the call or by bringing it with them to the session.
- D. **Certificate.** The moderator of each session will provide each attendee with a certificate of attendance, which must be filed with the Court's Clerk prior to the Court's granting the Petition for Dissolution of Marriage or Petition for Legal Separation.
- E. **Payment.** Each party is responsible for payment to Behavioral Health Care Associates of the \$30.00 cost of that party's participation. Allowances for waiver of fee will be given upon a good-faith showing of indigence.
- F. **Children Not to Attend.** Participants may not bring children to these sessions. G. **Make-Up Session.** Make up sessions will be scheduled at dates and times to be by Behavioral Health Care Associates to accommodate those individuals who have

irreconcilable conflicts with the Wednesday meeting dates.

H. **Waiver.** In those limited circumstances where it is clearly apparent that a party's compliance with this rule cannot be compelled, upon written motion, the Court may grant a waiver of its application.

I. **Clerk to Provide Copies.** The Clerk is directed to provide a copy of this rule to all petitioners or their attorneys at the time of filing of any Dissolution of Marriage Petition or Petition for Legal Separation if the parties have minor children, and attach a copy of this rule to such Petitions to be served with Summons.

J. **Praecipe for Failure to Attend.** If one party has failed to attend the class as required, the complying party may file a Praecipe with the Court requesting that the Court enter an Order requiring the opposing party to attend the class by a date certain or be subject to contempt of court.

RULE 14

CONTACT WITH CUSTODIAL EVALUATORS

In the event a custodial evaluation is ordered by the Court, the Court shall direct the parties to contact the custodial evaluator to arrange for an appointment with the custodial evaluator. Other than making contact with the office of the custodial evaluator to arrange for the client's appointment with the custodial evaluator, counsel shall not initiate contact or otherwise communicate with the custodial evaluator until the custodial evaluator's report has been issued. Prohibited contact or communication shall include the sending of school records, medical records, affidavits, reports, or any other type of written record by the attorney to the custodial evaluator. Information which may be requested by the custodial evaluator shall be delivered or otherwise presented to the evaluator by the party and not counsel. In the event the custodial evaluator should contact counsel before the evaluator's report has been issued, such fact should be promptly conveyed to opposing counsel indicating the specific dialogue between counsel and the custodial evaluator. Following the issuance of the evaluator's report, the evaluator shall be deemed a witness and counsel shall be permitted ex parte communication with the evaluator at counsel's/client's expense.

Whenever a Court orders a custodial evaluation the Court shall attach a copy of this Rule to its order and shall have the Clerk distribute such order and attached Rule to the designated custodial evaluator

RULE 15

TERMINATION OF REPRESENTATIVE CAPACITY

A. **Representative Capacity Terminated.** Upon the entry of final Decree of Dissolution of Marriage, Legal Separation, Paternity, or and Order of permanent modification of any custody, visitation and/or child support Order, the representative capacity of all attorneys appearing on behalf of any party shall be deemed terminated upon:

1. An order of withdrawal granted pursuant to Wayne County Local Rule 3 ~r,
2. The expiration of time within which an appeal of such Order may be preserved or perfected pursuant to the Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate Procedure; or,
3. The conclusion of any appeal of such Order commenced pursuant to Indiana Rules of Trial Procedure and/or the Indiana Rules of Appellate Procedure.

B. **Post-Decree Service.** The service of any post dissolution pleadings upon any party not represented by counsel pursuant to paragraph A above, shall be made upon that person pursuant to Indiana Rules of Trial Procedure.

C. **Courtesy Copy.** Any copy served upon original counsel will be deemed to be a matter of professional courtesy only; however, such professional courtesy is encouraged and if a courtesy copy of such petition is sent to a representative, whether terminated or not, such shall be shown on a certificate of service.

APPENDIX

A. SUMMONS

B. VISITATION GUIDELINES

C. GENERAL RULES

D. FINANCIAL DECLARATION FORM

APPENDIX A. SUMMONS (Green in color)
SUMMONS

IN THE WAYNE CIRCUIT AND SUPERIOR COURTS

INRE:

Petitioner
and
Respondent
TO RESPONDENT: (Name)
(Address)

CAUSE NO.

You are hereby notified that you have been sued by the Petitioner for (Dissolution of Marriage) (Legal Separation) (Paternity) (Child Support) in the Court indicated above.

If this summons is accompanied by an Order to Appear, you must appear in Court on the date and time stated in the Order to Appear. If you do not appear, evidence may be heard in your absence and a determination made by the Court. If a Temporary Restraining Order is attached, it is effective immediately upon your receipt or knowledge of the Order.

If you wish to retain an attorney to represent you in this matter, it is advisable to do so before the date stated in the Order to Appear.

If you take no action in this case after receipt of this summons, the Court can grant a Dissolution of Marriage (Legal Separation) or make a determination regarding any of the following: paternity, child custody, child support, maintenance, visitation, property division (real or personal) and any other distribution of assets and debts.

Dated:

Clerk, Wayne County

(The following manner of Service of Summons is hereby designated.)

☐ Registered or Certified Mail
☐ Service on Individual
Service at place of employment, to-wit:
Private Service

SHERIFF'S RETURN OF SERVICE OF SUMMONS

I hereby certify that I have served this summons on the _____ day of _____, 199 ____.

(1) By delivering a copy of the Summons and a Copy of the complaint to the defendant,

(2) By Leaving a copy of the Summons and a copy of the complaint at _____ which is the dwelling place or usual place of abode of and by mailing a copy of said summons to said defendant at the above address.

(3) Other Service or Remarks:

Sheriff's Costs

Sheriff

By: _____
Deputy

CLERK'S CERTIFICATE OF MAILING

I hereby certify that on _ day of _____, 199 ____, I mailed a copy of this Summons and a copy of the complaint to the defendant, _____, by _____ mail, requesting a return receipt, at the address furnished by the plaintiff.

Clerk, Wayne County

Dated: _____, 19 ____ . By: _____
Deputy

RETURN OF SERVICE OF SUMMONS BY MAIL

I hereby certify that the attached receipt was received by me showing that the SØØns and a copy of the complaint mailed to defendant _____ was accepted by the defendant on the _____ day of _____, 19 _____.

I hereby certify that the attached return receipt was received by me showing that the SØØns and a copy of the complaint was returned not accepted on the _____ day of _____, 19 ____.

I hereby certify that the attached return receipt was received by me showing that the SØØns and a copy of the complaint mailed to defendant was accepted by _____ on behalf of the defendant on the _____ day of _____, 19 ____.

Clerk, Wayne County

By: _ _____ D
eputy

APPENDIX B. VISITATION GUIDELINES

INTRODUCTION

Arranging for a child's permanent residence and access to each parent is one of the first joint decisions that a divorcing couple must make. It is usually in the child's best interest for each parent to have a frequent, meaningful and continuing relationship with their children. For children to make an adequate adjustment to the dissolution of their parents marriage, the children must be allowed to continue their relationship with both parents, experience minimal changes in their lifestyle if at all possible, and not experience post-divorce conflict between their parents. An Access/Visitation Agreement made by both parents is preferable to a court imposed solution. However, if the parents are unable to agree on access/visitation, the following guidelines shall be used in most cases.

These guidelines are not meant to provide minimum or maximum access, but to set forth a standard, which can be adjusted depending on the unique needs and circumstances of each family. There may be additional decisions that will have to be made in families with more than one child or additional decisions may have to be made if there are geographical distances between the divorcing parents and the children. Also, in situations where the non-custodial parent may not have had ongoing contact with the children, initial visitation may be shorter.

The parents, in exercising visitation, should be flexible enough to adapt to the circumstances, the child's age and developmental needs, and on-going activities.

I. Birth to 1 Year of Age

A. Routine Access:

1. Non-custodial parent shall have four (4) visits with the child per week, with such contact lasting four (4) hours in length.
2. If the child is taken from the home of the custodial parent, the child shall be returned at least one (1) hour before evening bedtime.
3. Overnights are not recommended

B. Holiday Access:

1. Holiday access takes precedence over the regularly scheduled visitation plan.
2. The non-custodial parent shall be entitled to the following:
 - a. On each child's birthday from 5:00 p.m. until 8:00 p.m.; b. Memorial Day Monday from 2:00 p.m. until 6:00 p.m.; c. Labor Day Monday from 2:00 p.m. until 6:00 p.m.; d. Thanksgiving Day from 2:00 p.m. until 6:00 p.m.; e. Christmas Day from 2:00 p.m. until 6:00 p.m.; f. Independence Day from 2:00 p.m. until 6:00 p.m.;
 - g. Mother's Day with Mother from 2:00 p.m. until 4:00 p.m. and Father's Day with Father from 2:00 p.m. until 4:00 p.m.

II. 1 Year of Age to 5 Years of Age

A. Routine Access

1. If the non-custodial parent has had consistent contact with the child, the noncustodial parent shall have access on alternate weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m.
2. If the non-custodial parent has had minimal contact with the child prior to the separation the non-custodial parent shall have access on alternate weekends from Saturday morning at 10:00 a.m. until Sunday evening at 6:00p.m.
3. Additionally, the non-custodial parent shall be permitted one (1) week night each and every week with the child from 5:30 p.m. until 7:30 p.m.

B. Holiday Access:

1. Holiday access takes precedence over the regularly scheduled access/visitation plan.
2. The non-custodial parent shall be entitled to the following:

In years ending in an odd number:

- a. The night before each child's birthday from 5:00 p.m. until 8:00 p.m.; b. Memorial Day Monday from 9:00 a.m. until 6:00 p.m.; c. Independence Day from 9:00 a.m. until 6:00 p.m.; d. Thanksgiving Day from 9:00 a.m. until 6:00 p.m.; e. Christmas Eve from 6:00 p.m. until Christmas Day at 10:00 a.m.;

In years ending in an even number:

- a. Each child's birthday from 5:30 p.m. until 7:30 p.m.; b. Easter from 8:00 a.m. until 6:00 p.m.; c. Labor Day Monday from 9:00 a.m. until 6:00 p.m.; d. Halloween evening from 5:30 p.m. until 8:00 p.m.; e. Christmas Day from 10:00 a.m. until 7:00 p.m..

C. Summer Visitation

1. The non-custodial parent shall have one (1) week of vacation with the children each June, July and August of each year. The non-custodial parent shall notify the custodial parent in writing no later than May 1 of each year as to the specific weeks of such summer visitation.

III. 5 Years of Age and Beyond A. Routine Access:

1. Non-custodial parent shall have access with the child on alternate weekends from Friday at 6:00 p.m. until Sunday at 6:00 p.m. and on the Wednesday preceding the weekend access from 5:30 p.m. to 7:30 p.m.
2. In addition, the non-custodial parent shall have access with the child during the week immediately following the weekend visitation on Tuesday and Thursday evening from 5:30 p.m. until 7:30 p.m..

B. Holiday Access:

1. Holiday access takes precedence over the regularly scheduled access/visitation plan.
2. The non-custodial parent shall be entitled to the following: In years ending in an odd number:
 - a. The night before each child's birthday from 5:00 p.m. to 8:00 p.m.;
 - b. Spring Break from Friday at 6:00 p.m. to the Sunday prior to the start of school at 6:00 p.m.;
 - c. Memorial Day weekend from 6:00 p.m. on Friday until 6:00 p.m. on Monday; d. Independence Day from 6:00 p.m. on July 3 until 6:00 p.m. on July 5;
 - e. Thanksgiving holiday from 6:00 p.m. on Wednesday until 6:00 p.m. on Sunday; f. From 6:00 p.m. on December 26 until 6:00 p.m. on January 1st.

In years ending in an even number:

- a. Each child's birthday from 5:30 p.m. until 7:30 p.m.;
- b. Easter weekend from 6:00 p.m. on Good Friday until 6:00 p.m. on Easter Sunday;
- c. Labor Day weekend from 6:00 p.m. on Friday until 6:00 p.m. on Monday;
- d. Halloween evening from 5:30 p.m. until 9:00 p.m.
- e. Christmas holiday from 6:00 p.m. on December 20 until 6:00 p.m. on December 26.

C. Mother's Day/Father's Day

1. The mother shall have access every Mother's Day weekend from Friday at 6:00 p.m. until Sunday at 6:00 p.m.;

2. The father shall have access every Father's Day weekend from Friday at 6:00 p.m. until Sunday at 6:00 p.m.

D. Summer Visitation:

1. The non-custodial parent shall have five (5) weeks of summer visitation with the child to be taken in no more than two (2) week intervals and with such weekly or two (2) week visits to be non-consecutive. The non-custodial parent shall notify the custodial parent in writing no later than May 1 of each year as to the specific weeks of such summer visitation.

APPENDIX C

GENERAL RULES APPLICABLE TO ALL WAYNE COUNTY

VISITATION AND SUPPORT GUIDELINES

1. Conflicts Between Regular Weekend, Holiday, and Extended Summer

Visitation. Where there is a conflict between a holiday weekend and the regular weekend visitation, the holiday takes precedence. Thus, if the non-custodial parent misses a regular weekend because it is the custodial parent's holiday, the regular alternating visitation schedule will resume following the holiday. If the non-custodial parent received two consecutive weekends because of a holiday, the child will spend the following weekend with the custodial parent. When there is a conflict between holiday visitation and extended summer visitation, the holiday visitation takes precedence. When there is a conflict between regular weekend visitation and extended summer visitation, extended summer visitation takes precedence. 2. **Appropriate Conduct By Parents.** Parents

shall, at all times, avoid speaking negatively about each other and should firmly discourage such conduct by relatives or friends. Each parent should encourage the children to support the other parent. The basic rules of conduct and discipline established by the custodial parent should be the baseline standard for both parents, and consistently enforced by both, so that the children do not receive mixed signals.

3. **Parental Communication.** Parents shall at all times keep each other advised of their home and work addresses and telephone numbers. So far as possible, all communication concerning the children shall be conducted between the parents in person, or telephonically at their residences (and not at their places of employment).

4. **Grade Reports and Medical Information.** The custodial parent shall provide the non-custodial parent with grade reports and notices from school as they are received

and shall, consistent with Indiana law, permit the non-custodial parent to communicate concerning the children directly with the school and with the children's doctors and other professionals, outside the presence of the custodial parent. Each parent shall immediately notify the other of any medical emergencies or serious illnesses of the children. The custodial parent shall notify the non-custodial parent of all school or other events (like Church or Scouts) involving parental participation. If the children are taking medications, the custodial parent shall provide a sufficient amount and appropriate instructions. 5. **Visitation Clothing.** The custodial parent shall send an appropriate supply of the children's clothing with them which shall be returned clean (when reasonably possible), with the children, by the non-custodial parent. The non-custodial parent shall advise, as far in advance as possible, of any special activities so that the appropriate clothing may be sent.

6. **Visitation or Support Disputes.** Neither visitation nor child support is to be withheld because of either parent's failure to comply with a court order. Only the Court may enter sanctions for non-compliance. The children have a right to both support and visitation, neither of which is dependant upon the other. In other words, failure to pay support does not mean no visitation and no visitation does not mean no support. If there is a violation of either a visitation or a support order, the exclusive remedy is to apply to the court for appropriate sanctions.

7. **Adjustments to This Visitation Schedule.** Although this is a rather specific schedule, the parties are expected to fairly modify visitation when family necessities, illnesses or commitments reasonably so require. The requesting party shall give as much notice as circumstances permit.

8. **Pick-up and Drop-off.** Unless other arrangements are made, the non-custodial parent shall pick up the children at the times specified and return them at the times.

specified. The custodial parent shall have the children ready for visitation at the time they are to be picked up and shall be present at the home to receive the children at the time they are returned. Unjustified violations of this provision may result in the offender being subject to contempt of court. **(Commentary:** While it is most desirable for the parents to pick up and return the children, this provision does not prohibit grandparents, current spouses or other appropriate adults known to the children.)

9. **Extracurricular Activities.** Children are often involved in sports, lessons, and other extracurricular activities, which are generally to their benefit and enjoyment. Each parent shall recognize that a reasonable amount of extracurricular activities are generally assumed to be in the children's best interests. Each parent should attempt to be flexible in order to accommodate the children's extracurricular activity schedules as much as reasonably possible, although extracurricular activities should not supersede summer visitation with non-custodial parents, nor should they be used as a method by which to deny access to the non-custodial parent. In recognition of the scheduling difficulties that can be caused by children's extracurricular activities, custodial parents should act in good faith in attempting to schedule such extracurricular activities as not to unreasonably infringe upon the non-custodial parent's access to the children. Likewise, the noncustodial parent should act in good faith in attempting to assist in transportation needs and in accommodating the children's extracurricular schedules as much as reasonably possible. Good faith communication by the parents is essential with regard to the difficult issue of the scheduling of children's extracurricular activities.

10. **Notice of Canceled Visitation.** Whenever possible, the non-custodial parent shall give a minimum of three (3) days notice of intent not to exercise all or part of the scheduled visitation. When such notice is not reasonably possible, the maximum notice permitted by the circumstances, and the reason therefore, shall be given. The

custodial parent shall give the same type of notice when good cause exists making the cancellation or modification of scheduled visitation necessary.

11. Missed Visitation. In the event the non-custodial parent misses visitation as the result of illness of the child or parent, an emergency, or other such reasonable excuse, the parties shall make a good faith effort to make up a portion of that visitation within a reasonable period of time, understanding the importance of the non-custodial parent's continuing and frequent contact with the children. (Commentary: It is important to remember that illness should not necessarily deprive the non-custodial parent of visitation with the children. Clearly, a non-custodial parent can take care of a sick child as well as the custodial parent in many circumstances.)

12. Custodial Parent's Vacation. Unless otherwise specified, the custodial parent shall be entitled to a period of vacation with the children no less than that accorded the non-custodial parent, whose visitation shall abate during the first fourteen days thereof, and thereafter only so long as distance makes visitation impracticable.

13. Caretaker Provision. As a general rule, each parent shall have the right of first refusal for child care or babysitting needs of the other parent for durations of four hours or more. Whenever either parent has a need for child care or babysitting for a duration of four hours or more, that parent should always make a good faith attempt first to inquire of the other parent, with as much advance notice as reasonably possible, whether the other parent desires to provide child care or babysitting. The other parent is under no obligation to provide the child care or babysitting. If the other parent elects to provide such child care or babysitting, it shall be done at no cost. This provision is intended to provide each parent additional access to the children whenever reasonably possible.

14. Telephone and Mail Privileges. Each parent shall allow liberal and reasonable telephone and mail privileges with the children.

15. **Medical Reports and Bills.** The Custodial parent shall provide copies of all medical information, and documentation, including bills, within seven (7) days of their receipt and shall immediately notify the other parent in the event of a medical emergency. Every effort shall be made for the custodial parent to provide the non-custodial parent with the necessary information of a medical expense in order to get the bill satisfied. The parent with the medical insurance shall provide the other parent with a copy of the explanation of benefits with seven (7) days from the date of receipt of same so that the uninsured portion of the bill can be quickly calculated and paid within a reasonable period of time.

16. **Abatement of Support During Extended Visitation.** If the non-custodial parent's support obligation is current, support shall abate by 50 percent during any visitation of seven (7) consecutive days or more. If support is not current, the 50 percent that would have been abated shall be paid and shall apply to the existing arrearage. **(Commentary:** If the custodial parent actually receives the full amount of child support during this period and if support is current, it is the custodial parent's obligation to refund the money immediately to the non-custodial parent. This alleviates many of the problems that arise when wage withholding orders have been issued.)

17. **Modification.** If the parties mutually agree permanently to change the provisions of their decree of divorce, they must petition the Court to approve and order that change. In the event that the parties do not obtain a court order, the Court will not be bound by any alleged agreement of the parties.

APPENDIX D

FINANCIAL DECLARATION FORM

STATE OF INDIANA: CIRCUIT AND SUPERIOR COURTS OF WAYNE COUNTY

IN RE THE MARRIAGE OF: _____ CAUSE NO. _____

Petitioner
and

Respondent

FINANCIAL DECLARATION OF _____ Date: _____

Husband* _____

Address _____ Address _____

Soc Sec. No. _____ Soc. Sec. No. _____

Badge/Payroll No. _____ Badge/Payroll No. _____

Occupation _____ Occupation _____

Employer _____ Employer _____

Birth Date _____ Birth Date _____

Date of Marriage: _____

Date of Physical Separation: _____

Date of Filing: _____

Names and dates of birth of all children of this relationship, whether by birth or adoption:

NOTE: THIS DECLARATION IS CONSIDERED MANDATORY DISCOVERY AND MUST BE EXCHANGED BETWEEN PARTIES WITHIN THE TIME PRESCRIBED BY THE WAYNE COUNTY RULES OF FAMILY LAW. PARTIES NOT REPRESENTED BY COUNSEL ARE REQUIRED TO COMPLY WITH THESE PRACTICES. FAILURE BY EITHER PARTY TO COMPLETE AND EXCHANGE THIS FORM AS REQUIRED WILL AUTHORIZE THE COURT TO IMPOSE THE SANCTIONS SET FORTH IN THE WAYNE COUNTY RULES OF FAMILY LAW.

*In paternity actions, the term "husband" includes the putative father and the term "wife" includes the mother

PART L INCOME AND EXPENSE STATEMENT

STATEMENT OF INCOME, EXPENSES, ASSETS AND LIABILITIES

Attach copies of state and Federal Income Tax Returns for last three taxable years and wage statement from your employer for the last three (3) weeks.

NOTE: Attach separate sheets for subparts A, B and C for current spouse(s), roommate(s) or other(s) residing in the home.

HUSBAND

WIFE

A. GROSS WEEKLY INCOME from:

1. Salary and wages including commissions, bonuses, allowances and overtime, payable _____ (pay period)
Note: If paid monthly, determine weekly income by dividing monthly income by 4.3
2. Business/Self Employment Income before expenses
3. Commissions, Bonuses, Tips
4. Pensions and Retirement
5. Social Security
6. Disability, Unemployment, Worker's Comp.
7. Public Assistance (welfare, AFDC payments, etc.)
8. Food Stamps
9. Child support received for any child(ren) not born of the parties to this marriage
10. Dividends and interest
11. Rents/Royalties less ordinary & necessary expenses
12. All other sources (Specify)

13. TOTAL GROSS WEEKLY INCOME

\$ _____

\$

B.	ITEMIZED WEEKLY DEDUCTIONS	HUSBAND	WIFE
14.	Weekly court ordered child support for prior children		
15.	Weekly legal duty child support for prior children		
16.	Weekly health insurance premiums for children of this case only		
17.	Weekly alimony/support/maintenances Paid to prior spouses (actual paid)		
18.	1/2 Weekly Self-employment Tax		
19.	Union dues		
20.	Weekly available income (Line 13 less Lines 14-19)		
21.	Work Related Child Care		
22.	Extraordinary Health care Costs		
23.	Extraordinary Educational Expenses		
24.	TOTAL GROSS WEEKLY DEDUCTIONS \$		\$

C. WEEKLY DISPOSABLE INCOME (Line 13 minus Line 24)

D. OTHER EXPENSES State

Incomes Taxes Federal

Income Taxes

Number of exemptions taken

Husband: Wife:

Social Security

**Medical Insurance - other than for children
(list all persons covered):**

Coverage available for children:

Medical ()

Dental ()

Eye Care ()

Psychiatric ()

Retirement or pension fund:

**Mandatory () Optional
()**

**Child support withheld from pay
(not including this case)**

Garnishments (itemize on separate sheet)

Credit Union debts

**Savings: Thrift plans () Credit Union
Savings () Bonds () Other
(specify) ()**

Other (Specify):

- E. **IN ALL CASES INVOLVING CHILD SUPPORT:** Prepare and attach an Indiana Child Support Guidelines Worksheet (with documentation verifying your income); or, supplement such a Worksheet within ten (10) days of the exchange of this Form.
- F. **SELECTED MONTHLY LIVING EXPENSES:** (Specify which party is the custodial parent and list name and relationship of each member of the household whose expenses are included).

HUSBAND

WIFE

Rent or mortgage payments (residence)

Real property taxes (residence) if not
included in mortgage payment

insurance (residence) if not included in
mortgage payment

Utilities (including water, sewer, electricity, Gas,
heat and garbage)

Telephone

Child Support not withheld from pay
(not including this case)

Medical (not covered by insurance)

Dental (not covered by insurance)

Insurance (life, health, accident, liability,
disability excluding payroll deducted and automobile)

School (including, if applicable, colleges,
universities or trade schools)

Child care and pre-school Transportation

(other than automobile) Auto payments

HUSBAND

WIFE

Auto Insurance (not included in auto
payment) Other (Specify):

MONTHLY TOTAL EXPENSES

AVERAGE WEEKLY EXPENSES

(Divide total monthly expenses by 4.3)

Note: Indicate which of the foregoing expenses are delinquent and the amount thereof G.

DEBTS AND OBLIGATIONS: (Include credit union) Attach additional sheets as needed.

CREDITOR'S
NAME

DATE
PAYABLE

BALANCE

MONTHLY
PAYMENT

TOTAL

ATTACH A COPY OF THE MOST RECENT STATEMENT FOR EACH DEBT.

Note: Indicate any special circumstances, i.e., premarital debts, debts in arrears on the date of physical separation or date of filing and the amount or number of payments in arrears.

PART II. NET WORTH

List all property owned either individually or jointly. Indicate who holds or how title held: (H) Husband, (W) Wife, or (J) Jointly. WHERE SPACE IS INSUFFICIENT FOR COMPLETE INFORMATION OR LISTING PLEASE ATTACH SEPARATE SCHEDULE.

Ownership	<u>Value</u>	Balance(s) Owed
<u>H/W/J</u>		<u>(Identify Creditors)</u>

A. HOUSEHOLD

FURNISHINGS

(Value of furniture, appliances, and equipment, as a whole; that is, you need not itemize)

B. VEHICLES

(Year and Make)

Indicate regular driver

Ownership	<u>Value</u>	Balance(s) Owed
<u>H/W/J</u>		<u>(Identify Creditors)</u>

B. SECURITIES

(stocks, bonds, etc.)

Company	Ownership	<u>Value</u>	Balance(s) Owed
<u>H/W/J</u>	<u>(Identify Creditors)</u>		

D. CASH AND DEPOSIT ACCOUNTS (including banks; savings and loan associations; credit unions; thrift plans; mutual funds; certificates of deposit; savings and checking accounts; IRA's and annuities)

Ownership ____ **Value** ____ **Account No.** ____ **Institution**
H/W/J _____

E. LIFE INSURANCE

Company/ Policy No.	Ownership Beneficiary Face H/W/J	Amount	Type: Term, Whole Life Group	Cash Value/ Loan Amount
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F. RETIREMENT PLANS

Name of Plan	Ownership Vested H/W/J	Yes/No	Monthly Benefit At Earliest Retirement Date	Present Value (if known)
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Attach documents from each plan verifying information. If not yet received, attach a copy of your written requests to the plan(s).

G. REAL ESTATE (attach separate sheet with the following information for each parcel).

Address _____ **Type of Property**

Date of acquisition

Original cost \$ _____ **Present value \$**

Cost of additions \$ _____ **Basis for valuation (attach appraisal if**
Obtained): Total costs \$

Mtg. Balance \$ _____

Other liens \$ _____

Equity \$ _____

Monthly payment \$ _____ **To whom paid**

Taxes (if not included in payment) \$ _____ **Insurance (if not included in payment) \$** _____

Special Assessments _____

Individual contributions to real estate (for example, inheritance, pre-marital assets, personal loans)

H. BUSINESS OR PROFESSIONAL INTERESTS

(indicate name, share, type of business, value less indebtedness)

- I. OTHER ASSETS (that is, specify coin, stamp or gun collections or other items of unusual value). Use additional sheets as needed.

- J. ATTACH ALL AVAILABLE DOCUMENTATION TO VERIFY VALUES.

PART III. ARREARAGE COMPUTATION

If there is alleged the existence of a support or other arrearage, attach all records or other exhibits regarding payment history and compute the arrearage as of the date of filing of the petition or motion which raises that issue.

PART IV. VERIFICATION

I declare, under the penalties of perjury, that the foregoing, including any valuations and attachments is true and correct and that I have made a complete and absolute disclosure of all of my assets and liabilities. Furthermore, I understand that if, in the future, it is proven to this court that I have intentionally failed to disclose any asset or liability, I may lose the asset and may be required to pay the liability. Finally, I acknowledge that sanctions may be imposed against me, including reasonable attorney's fees and expenses incurred in the investigation, preparation and prosecution of any claim or action that proves my failure to disclose assets or liabilities.

Date:

PARTY' S SIGNATURE

PART V. ATTORNEY'S CERTIFICATION

I have reviewed with my client the foregoing information, including any valuations and attachments, and sign this certificate consistent with my obligation under Trial Rule 11 of the Indiana Rules of Procedure.

Date:

ATTORNEY' S SIGNATURE Name

Indiana Attorney Number:

Address

Phone:

Fax: